

May 24, 2005

GLORIA L. FRANKLIN, CLERK
U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA

DO NOT PUBLISH

Signed: May 24, 2005

A handwritten signature in black ink, appearing to read "Randall J. Newsome".

RANDALL J. NEWSOME
U.S. Bankruptcy JudgeUNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISIONIn re Paul and Mary Ellen Arakorpi,

Debtors.Case No. 05-40509 N13
Chapter 13

ORDER FOR DISGORGEMENT OF FEES

In accordance with the record established at a May 19, 2005 hearing on confirmation of a Chapter 13 plan in the above-captioned case, no appearance was made by Barbara A. Smart, Esq., attorney for the Debtors. Ms. Smart's failure to appear at hearings and to properly address and attend to matters have been the subject of several previous hearings before this Court. (*See*, Exhibit A, attached). In accordance with the foregoing, Barbara A. Smart is hereby ordered to disgorge to the Debtors \$1,000 of the \$1,500 in fees thus far received by Ms. Smart in this case. Ms. Smart shall file evidence of such payment within 10 days of the filing date of this order. A continued confirmation hearing on the plan in the above-captioned case is hereby scheduled for **June 9, 2005 at 2:00 p.m.** in Courtroom 220 of the United States Bankruptcy Court, 1300 Clay Street, Oakland, California. A failure by Ms. Smart to appear at the June 9, 2005 hearing may result in disgorgement of some or all of any additional fees paid to her in this case.

IT IS SO ORDERED.****END OF ORDER****

COURT SERVICE LIST

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Barbara A. Smart
Smart Legal Services
22693 Hesperian Blvd. #210
Hayward, CA 94541

Paul R. Arakorpi
Mary Ellen Arakorpi
113 Arak Ct.
Pleasanton, CA 94566

Office of the U.S. Trustee
1301 Clay St. #690N
Oakland, CA 94612

Exhibit A

BANKRUPTCY COURT
OAKLAND, CALIFORNIA

Schedule Hearings:04-44393 Cheryle Romo**U.S. Bankruptcy Court****Northern District of California**

Notice of Electronic Filing

The following transaction was received from dmp, entered on 11/19/2004 at 11:59 AM PST and filed on 11/18/2004

Case Name: Cheryle Romo

Case Number: 04-44393

Document Number:

Docket Text:

MINUTES OF PROCEEDINGS HEARING HELD 11/18/04 (RE: related document(s)[6] Notice of Hearing *Regarding Confirmation of Chapter 13 Plan with Certificate of Service* Confirmation hearing to be held on 11/04/2004 at 02:00 PM at Oakland Room 220. (Bronitsky, Martha (harbor)), [7] Amended Notice of Confirmation Hearing W/Certificate Of Service (RE: related document(s)[6] Notice of Hearing *Regarding Confirmation of Chapter 13 Plan with Certificate of Service* Confirmation hearing to be held on 11/04/2004 at 02:00 PM at Oakland Room 220. (Bronitsky, Martha (harbor))). Confirmation hearing to be held on 11/18/2004 at 02:00 PM at Oakland Room 220. Filed by Trustee Martha G. Bronitsky (lb,)). CONFIRMATION HEARING CONTINUED TO 12/9/2004 at 2:00 PM THE COURT QUESTIONS THE DEBTORS ABILITY TO FUND PLAN. MAJOIRTY OF INCOME STATED ON THE SCHEDULE I IS FROM THE DEBTORS BOYFRIEND. MICHEL JENKINS APPEARED FOR BARBARA SMART - NO APPEARANCE BY THE DEBTOR. ORDER TO SHOW CAUSE RE: FEES PAID TO DEBTORS ATTORNEY. (dmp,)

The following document(s) are associated with this transaction:

04-44393 Notice will be electronically mailed to:

Martha G. Bronitsky 13trustee@oak13.com

Office of the U.S. Trustee /Oak USTPRegion17.OA.ECF@usdoj.gov

Barbara A. Smart smartlegalservices@gmail.com

04-44393 Notice will not be electronically mailed to:

John Mendonza
North Law Firm
1625 The Alameda #705
San Jose, CA 95126

UNITED STATES BANKRUPTCY COURT

FILED

NORTHERN DISTRICT OF CALIFORNIA SEP 27 2004

BANKRUPTCY COURT
OAKLAND, CALIFORNIA

In re Hugo and Aracely Bracamontes,

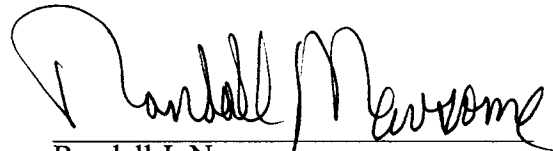
Debtors.

Case No. 03-41794 NG

Chapter 13

ORDER VACATING ORDER TO SHOW CAUSE

In accordance with the record established at a September 23, 2004 hearing, the *Order to Show Cause* (doc.25) filed in the above-captioned case on May 19, 2004 is hereby vacated, provided however if the conduct of Barbara A. Smart, Esq., subject of that *Order to Show Cause* occurs again before this Court such *Order to Show Cause* shall be reinstated and additional sanctions may be imposed.

IT IS SO ORDERED.

Randall J. Newsome
United States Bankruptcy Judge

Schedule Hearings:**03-41794 Hugo Bracamontes and Aracely Bracamontes****U.S. Bankruptcy Court****Northern District of California****Notice of Electronic Filing**

The following transaction was received from dmp, entered on 9/24/2004 at 12:04 PM PDT and filed on 9/23/2004

Case Name: Hugo Bracamontes and Aracely Bracamontes

Case Number: 03-41794

Document Number:

Docket Text:

Minutes of Proceedings Hearing Held on 09/23/04 RE: Order to Show Cause. Order to Show cause vacated. The Court will prepare form of order. (dmp,)

The following document(s) are associated with this transaction:

03-41794 Notice will be electronically mailed to:

Martha G. Bronitsky 13trustee@oak13.com

Roger L. Efremsky northcourt@en-law.com

Office of the U.S. Trustee /Oak USTPRegion17.OA.ECF@usdoj.gov

Barbara A. Smart smart_legal@hotmail.com

03-41794 Notice will not be electronically mailed to:

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA

FILED

JUL 16 2004

BANKRUPTCY COURT
OAKLAND, CALIFORNIA

In re Hugo and Aracely Bracamontes,

Debtors.

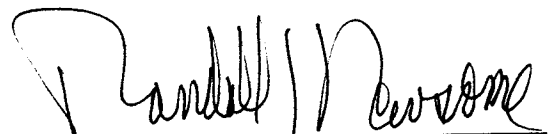
Case No. 03-41794 NG

Chapter 13

ORDER FOR SANCTIONS

In accordance with the record established at a July 8, 2004 hearing on an Order to Show Cause (doc. 25) issued in the above-captioned case, no appearance was made by Barbara A. Smart, Esq., as ordered by the Order to Show Cause. Accordingly, Barbara A. Smart is hereby sanctioned \$500 for failing to appear at the aforementioned hearing. This sanction shall be made payable to the Clerk of the Court. Ms. Smart shall submit evidence of such payment within 21 days of the filing date of this order. This matter is hereby continued to September 23, 2004 at 2:00 p.m. in Courtroom 220 of the United States Bankruptcy Court, 1300 Clay Street, Oakland, California.

IT IS SO ORDERED.


Randall J. Newsome,
United States Bankruptcy Judge

27

Schedule Hearings:03-41794 Hugo Bracamontes and Aracely Bracamontes**U.S. Bankruptcy Court****Northern District of California**

Notice of Electronic Filing

The following transaction was received from dmp, entered on 7/13/2004 at 2:10 PM PDT and filed on 7/8/2004

Case Name: Hugo Bracamontes and Aracely Bracamontes

Case Number: 03-41794

Document Number:

Docket Text:

MINUTES OF PROCEEDINGS: ORDER TO SHOW CAUSE CONTINUED TO 09/23/04 @ 2:00 P.M. BARBARA SMART TO APPEAR AT THE NEXT HEARING. MS. SMART SANCTIONED IN THE AMOUNT OF \$500.00 FOR NON APPEARANCE AT TODAY'S HEARING. SANCTIONS TO BE PAID TO THE CLERK OF THE COURT WITHIN 21 DAYS. (dmp,)

The following document(s) are associated with this transaction:

03-41794 Notice will be electronically mailed to:

Martha G. Bronitsky 13trustee@oak13.com

Roger L. Efremsky northcourt@en-law.com

Office of the U.S. Trustee /Oak USTPRegion17.OA.ECF@usdoj.gov

03-41794 Notice will not be electronically mailed to:

Barbara A. Smart
Smart Legal Services
22693 Hesperian Blvd. #210
Hayward, CA 94541

1 ROGER L. EFREMSKY, ESQ.
California State Bar #111467
2 AUSTIN P. NAGEL, ESQ.
California State Bar #118247
3 5776 Stoneridge Mall Road,
Suite 360
4 Pleasanton, California 94588
Telephone: (925) 463-0505
5 Facsimile: (925) 463-8064

6 Attorneys for Secured Creditor,
FORD MOTOR CREDIT COMPANY
7

8 UNITED STATES BANKRUPTCY COURT
9 NORTHERN DISTRICT OF CALIFORNIA

10 In Re:

11 HUGO BRACAMONTES and
12 ARACELY BRACAMONTES,

13 Debtors.
14 _____/

Case No. 03-41794 NG
(Chapter 13 Proceeding)

~~ORDER~~ REGARDING SECURED
CREDITOR, FORD MOTOR
CREDIT COMPANY, REQUEST
FOR A HEARING ON DEBTORS'
APPLICATION TO MODIFY
THEIR CHAPTER 13 PLAN

Date: April 29, 2004
Time: 2:00 p.m.
Ctrm: #220,
1300 Clay Street,
Oakland, CA

15
16
17 Entered On
18 Docket JUN 01 2004
19

20 On April 29, 2004, a hearing was held before the above-
21 entitled Court regarding the request for a hearing on the
22 Application To Modify Chapter 13 Plan put forth hereunder by
23 Debtors, HUGO BRACAMONTES and ARACELY BRACAMONTES (hereinafter
24 collectively referred to as "Debtors") made by Secured
25 Creditor, FORD MOTOR CREDIT COMPANY (hereinafter referred to
26 as "Secured Creditor").

27 ///

28 ///

FILED

MAY 19 2004

BANKRUPTCY COURT
OAKLAND, CALIFORNIA

1 All appearances having been duly entered on the record
2 and after oral, documentary, and/or competent evidence was
3 considered, the above-entitled Court found and ordered as
4 follows:

5 1. IT IS HEREBY ORDERED that Debtors' Application To
6 Modify Chapter 13 Plan is hereby granted.

7 2. Commencing immediately and continuing throughout the
8 pendency of the above-captioned case or until all sums due and
9 owing to Secured Creditor have been paid in full, should the
10 account Debtors and the nonfiling co-debtor, Miguel
11 Bracamontes, hold with Secured Creditor become delinquent,
12 without notice and/or without further Court hearing, IT HEREBY
13 FURTHER ORDERED that Secured Creditor shall be deemed to have
14 immediate relief from the automatic stay provisions heretofore
15 pending in this action as they pertain to the interest of
16 Debtors, to the interest of Chapter 13 Trustee, Martha G.
17 Bronitsky, and to the interest of the nonfiling co-debtor,
18 Miguel Bracamontes, in and to the subject vehicle and IT IS
19 HEREBY FURTHER ORDERED that the provisions of Federal Rules of
20 Bankruptcy Procedure, Rule 4001(a)(3) shall not apply.

21 3. IT IS HEREBY FURTHER ORDERED that such relief will
22 entitle Secured Creditor to immediately recover the subject
23 vehicle and, thereafter, IT IS HEREBY FURTHER ORDERED that
24 Secured Creditor may exercise its State Law, contractual
25 remedies with regard to disposal of the subject vehicle.

26 ///

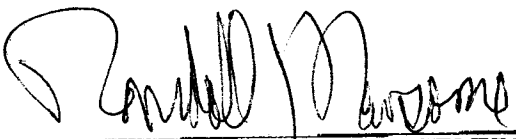
27 ///

28 ///

1 4. IT IS HEREBY FURTHER ORDERED that such relief will
2 allow Secured Creditor to send to any party or parties
3 protected by the stay under the following, applicable
4 provisions of 11 U.S.C. §§362, 1301 and/or 1201, any and all
5 notice required by State and/or Federal law, regulation or
6 statute.

7 5. IT IS HEREBY FURTHER ORDERED that the above-entitled
8 Court ^{heretofore} issues an Order To Show Cause to Debtors' counsel,
9 Barbara A. Smart, Esq., to appear on JUL - 8 2004, 2004,
10 at 2:00 pm .m. in Courtroom #220 of the above-entitled Court
11 to show why her fee to Debtors should not be reduced by the
12 sum of \$300.00 as a direct and proximate result of her willful
13 failure to timely resolve Secured Creditor's objection to
14 Debtors' Plan modification.

15
16
17 Dated: _____


JUDGE OF THE UNITED STATES
BANKRUPTCY COURT, NORTHERN
DISTRICT OF CALIFORNIA

18
19
20 APPROVED AS TO
FORM AND CONTENT:

21 Dated: May _____, 2004

SMART LEGAL SERVICES

22
23 By Barbara A. Smart
Attorneys for Debtors,
24 HUGO BRACAMONTES and
ARACELY BRACAMONTES

MIME-Version:1.0
From:BKECF_CANB@canb.uscourts.gov
To:CourtMail@canbei.canb.uscourts.gov
Bcc: 13trustee@oak13.com, northcourt@en-law.com
Message-Id:<1541980@canb.uscourts.gov>
Subject:03-41794

"Hearing Held (Bk)" Content-Type: text/html

*****NOTE TO PUBLIC ACCESS USERS*****You may view the filed documents once without charge. To avoid later charges, download a copy of each document during this first viewing.

U.S. Bankruptcy Court

Northern District of California

Notice of Electronic Filing

The following transaction was received from ljl, entered on 5/7/2004 at 10:48 AM PDT and filed on 5/7/2004

Case Name: Hugo Bracamontes and Aracely Bracamontes
Case Number: 03-41794
Document Number:

Docket Text:

MINUTES OF PROCEEDING:1) HEARING HELD 4/29/04. DEBTORS? APPLICATION TO MODIFY IS DENIED. OBJECTING PARTY TO PREPARE THE MODIFICATION/ORDER, TO INCLUDE OSC AS TO WHY MS. SMART SHOULD NOT BE SANCTIONED IN THE AMOUNT OF \$300.00, BASED UPON WILLFUL FAILURE TO ADDRESS THE ISSUES. (ljl,)

The following document(s) are associated with this transaction:

03-41794 Notice will be electronically mailed to:

Martha G. Bronitsky 13trustee@oak13.com

Roger L. Efremsky northcourt@en-law.com

Office of the U.S. Trustee /Oak USTPRegion17.OA.ECF@usdoj.gov

03-41794 Notice will not be electronically mailed to:

Barbara A. Smart
Smart Legal Services